IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 225 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MILAN CINEMA - Petitioner(s)

Versus

MAGANLAL N MISTRY - Respondent(s)

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Appearance :
MR KM PATEL for Petitioner(s) : 1,
MR DS VASAVADA for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 07/09/2005

ORAL JUDGMENT

1. In the present petition, the petitioner has challenged the legality of the award dated 7th April, 2000 by which the Labour Court, Ahmedabad was pleased to allow

the reference of the respondent workman. He was ordered to be reinstated in service with continuity, back wages and all other consequential benefits. Before the Labour Court, the case of the respondent was that he was employed by the petitioner as a Carpenter. Whereas the case of the petitioner has all through out been that the respondent was never employed by the petitioner.

2. During the pendency of the petition, the respondent has been paid benefits under Section 17 B of the Industrial Disputes Act. Learned Advocate for the petitioner further points out that the petitioner-Cinema has since been dismantled and is no longer in existence. He further points out that the respondent was aged about 55 years in the year 1997. He has, therefore, long crossed the age of 60 years and, therefore, his reinstatement in any case would not be feasible. Both the learned advocates appearing for the parties, therefore without prejudice to their contentions requested the Court to modify the award of the Labour Court by providing suitable compensation to the respondent as a full and final settlement of his claims against the petitioner.

3. Considering the facts and circumstances of the case and considering the salary standard at the relevant time and the fact that the respondent has been receiving benefits under Section 17 B of the Industrial Disputes Act, it is provided that the petitioner shall pay a sum of Rs. 40,000/- to the respondent by way of full and final settlement of the respondent against the petitioner and such payment shall be made within one month from today. In view of the above order, the award of the Labour Court has been modified. Petition is disposed of accordingly. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)

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